

ORDINANCE NO. 13-01

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING CHAPTER 30, ARTICLE XIII, DIVISIONS TWO AND THREE OF THE LAND DEVELOPMENT CODE PROVIDING FOR CHANGES TO THE REQUIREMENTS FOR THE ASSESSMENT OF IMPACT FEES FOR CHANGES OF USE IN EXISTING BUILDINGS THROUGH THE IMPLEMENTATION OF THE “IMPACT FEE PROGRAM FOR EXISTING COMMERCIAL REDEVELOPMENT”; ESTABLISHING A SUNSET DATE FOR THE PROGRAM UNLESS OFFICIALLY EXTENDED BY THE CITY COUNCIL; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE MARCO ISLAND LAND DEVELOPMENT CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary home rule powers to enable them to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 1.02 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and governance of the City; and

WHEREAS, the City Council of the City of Marco Island, Florida (“City Council”) has used impact fees as a funding source for growth-related capital improvements for various facilities since May 6, 2002; and

WHEREAS, on October 15, 2012 the City Council directed that the provisions related to the requirements for the assessment of Police and Fire/Rescue Service impact fees for “changes of use” in existing buildings be amended through the implementation of the “Impact Fee Program for Existing Commercial Redevelopment;” and

WHEREAS, the adoption of this Ordinance incorporates provisions that amend Sections 30-856, 30-861, 30-896 and 30-901 of the Marco Island Land Development Code which are related to change of size or use by establishing a program through which development shall not be assessed additional impact fees related to changes of use within an existing building, provided it meets the specific criteria; and

WHEREAS, this Ordinance specifies that this program shall not apply to assessments for water and wastewater impact fees.

WHEREAS, the City Council further finds that adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals.

The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment and Adoption.

The amendments to the Land Development Code contained in this Ordinance are hereby amended or created and adopted as follows:

Fire/Rescue Service Impact Fees

Sec. 30-856. - Imposition.

- (a) All fire/rescue services impact development within the city shall pay the fire/rescue services impact fee as set forth and established in Appendix A (section 30-869).
- (b) The city council hereby adopts the fire/rescue services impact fee incorporated within Appendix A (section 30-869), which shall be imposed upon all fire/rescue services system impact development occurring within the city, except for proposed developments which meet the criteria set forth below:
 - 1) Development is proposed within a lawfully existing building which has had a Certificate of Occupancy issued for at least 3 years prior to the commencement of this ordinance and applicable impact fees for the existing building must have been paid at the time of construction;
 - 2) Proposed development is solely within the existing building and does not include the addition of any new square footage; and
 - 3) Demolition and reconstruction projects are not eligible per this ordinance.
 - 4) The criteria established in the aforementioned Sec. 30-856(b)(1)(2)(3) will concurrently sunset with the sun-setting of Ordinance No. 2009-14 amending the Collier County Impact Fee Program and adopted by the Collier County Board of County Commissioners to stimulate commercial redevelopment.
- (c) The fire/rescue services impact fee shall be paid in addition to all other fees, charges and assessments due for the issuance of a building permit and is intended to provide funds only for growth necessitated improvements and additions to the fire/rescue services system.

Sec. 30-861. - Changes of size and use.

Impact fees shall be imposed and calculated for the alteration, expansion or replacement of a building or dwelling unit or the development of an accessory building if the

alteration, expansion or replacement of the building or dwelling unit or the development of an accessory building results in a land use determined to: (1) increase the number of dwelling units; (2) increase the square footage; or (3) change the land use so as to constitute a different impact fee land use category only if Sections 30-856(b)(1)(2)(3), 30-861(1)(a)(b)(c), 30-896(b)(1)(2)(3) and 30-901(1)(a)(b)(c) do not apply. The impact fee imposed under the applicable impact fee rate shall be calculated as follows:

(1) If the impact fees are calculated on land use and not square footage, the impact fees imposed shall be the impact fees due under the applicable impact fee rate for the impact fee land use category resulting from the alteration, expansion or replacement less the impact fee that would be imposed under the applicable impact fee rate for the impact fee land use category prior to the alteration, expansion or replacement, except for proposed developments which meet the criteria set forth below:

a) Development is proposed within a lawfully existing building which has had a Certificate of Occupancy issued for at least 3 years prior to the commencement of this ordinance and applicable impact fees for the existing building must have been paid at the time of construction;

b) Proposed development is solely within the existing building and does not include the addition of any new square footage; and

c) Demolition and reconstruction projects are not eligible per this ordinance.

d) The criteria established in the aforementioned Sec. 30-861(1)(a)(b)(c) will concurrently sunset with the sun-setting of Ordinance No. 2009-14 amending the Collier County Impact Fee Program and adopted by the Collier County Board of County Commissioners to stimulate commercial redevelopment.

(2) In the event the square footage of a building is increased, the impact fee shall be calculated only for that increased square footage.

(3) The impact fee imposed for any accessory buildings shall be that applicable under the impact fee rate for the land use for the primary building.

Police Services Impact Fees

Sec. 30-896. - Imposition.

(a) All police services impact development within the city shall pay the police services impact fee as set forth and established in Appendix A (section 30-909).

(b) The city council hereby adopts the police services impact fee incorporated within Appendix A (section 30-909), which shall be imposed upon all police services system impact development occurring within the city, except for proposed developments which meet the criteria set forth below:

1) Development is proposed within a lawfully existing building which has had a Certificate of Occupancy issued for at least 3 years prior to the commencement of this ordinance and applicable impact fees for the existing building must have been paid at the time of construction;

2) Proposed development is solely within the existing building and does not include the addition of any new square footage; and

3) Demolition and reconstruction projects are not eligible per this ordinance.

4) The criteria established in the aforementioned Sec. 30-896(b)(1)(2)(3) will concurrently sunset with the sun-setting of Ordinance No. 2009-14 amending the Collier County Impact Fee Program and adopted by the Collier County Board of County Commissioners to stimulate commercial redevelopment.

(c) The police services impact fee shall be paid in addition to all other fees, charges and assessments due for the issuance of a building permit and is intended to provide funds only for growth necessitated improvements and additions to the police services system.

Sec. 30-901. - Changes of size and use.

Impact fees shall be imposed and calculated for the alteration, expansion or replacement of a building or dwelling unit or the development of an accessory building if the alteration, expansion or replacement of the building or dwelling unit or the development of an accessory building results in a land use determined to: (1) increase the number of dwelling units; (2) increase the square footage; or (3) change the land use so as to constitute a different impact fee land use category only if Sections 30-856(b)(1)(2)(3), 30-861(1)(a)(b)(c), 30-896(b)(1)(2)(3) and 30-901(1)(a)(b)(c) do not apply. The impact fee imposed under the applicable impact fee rate shall be calculated as follows:

(1) If the impact fees are calculated on land use and not square footage, the impact fees imposed shall be the impact fees due under the applicable impact fee rate for the impact fee land use category resulting from the alteration, expansion or replacement less the impact fee that would be imposed under the applicable impact fee rate for the impact fee land use category prior to the alteration, expansion or replacement, except for proposed developments which meet the criteria set forth below:

a) Development is proposed within a lawfully existing building which has had a Certificate of Occupancy issued for at least 3 years prior to the commencement of this ordinance and applicable impact fees for the existing building must have been paid at the time of construction;

b) Proposed development is solely within the existing building and does not include the addition of any new square footage; and

c) Demolition and reconstruction projects are not eligible per this ordinance.

d) The criteria established in the aforementioned Sec. 30-901(1)(a)(b)(c) will concurrently sunset with the sun-setting of Ordinance No. 2009-14 amending the Collier County Impact Fee Program and adopted by the Collier County Board of County Commissioners to stimulate commercial redevelopment.

(2) In the event the square footage of a building is increased, the impact fee shall be calculated only for that increased square footage.

(3) The impact fee imposed for any accessory buildings shall be that applicable under the impact fee rate for the land use for the primary building.

SECTION 3. Inclusion in the Code of Ordinances.

It is the intention of the City Council and it is hereby ordained that the amendments to the City of Marco Island Land Development Code made by this Ordinance shall become part of the

City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and relettered as necessary, and that the word "Ordinance" may be changed to "Section," "Article" or other appropriate word.

SECTION 4. Conflicts.

All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. Severability.

If any section, clause, sentence or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. Effective Date.

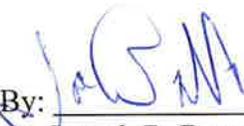
This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 7th day of January, 2013. Attest:

CITY OF MARCO ISLAND FLORIDA

By: 

Laura M. Litzan, City Clerk

By: 

Joseph R. Batte, Chairman

(SEAL)

Reviewed for legal sufficiency:

By: 

Burt L. Saunders, City Attorney

